

**Remarks**

Claims 19-26, 28, 29, 43-46, and 48-54 are pending and at issue in the present application.

Applicants respectfully traverse the rejections of claims 19-26, 28, 29, 43-46, and 48-54 as anticipated by or obvious over one or more of Harris U.S. Patent No. 3,149,761, Durso U.S. Patent No. 3,608,785, Knapp U.S. Patent No. 2,552,857, and Batistelli U.S. Patent No. 3,473,700.

Claim 19 and claims 20-26, 28, and 29 dependent thereon recite an actuator cap including a main wall that extends generally along an axial dimension thereof and has a generally circular cross section with a varying cross sectional size. A flexible actuator member integrally extends from the main wall transverse to the axial dimension, the actuator member includes a central portion adapted to be attached to a valve stem, and terminates at an outer peripheral surface that extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall. An upright portion having a curved outer surface is disposed adjacent the flexible actuator member. The curved outer surface is adapted to engage with an internal surface of a housing to guide the flexible actuator member and prevent inadvertent actuation of the flexible actuator member.

Claim 43 and claims 44-46 and 48-50 dependent thereon recite an actuator cap including a main wall with a generally circular cross section that decreases in cross sectional size along an axial dimension defined between first and second ends of the main wall. A flexible actuator member extends transversely to the axial dimension, the actuator member includes a central portion adapted to be attached to a valve stem, and terminates at an outer peripheral surface that extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall. An upright portion having a curved outer surface is disposed adjacent the flexible actuator member. The curved outer surface prevents inadvertent actuation of the flexible actuator member and the upright portion includes an arcuate gusset on an internal surface thereof.

Claim 51 and claims 52 and 53 dependent thereon recite an actuator cap and a housing therefor, the cap including a main wall that extends generally along an axial dimension thereof, a generally circular cross section, and a varying cross sectional size. A flexible actuator member extends transversely to the axial dimension and terminates at an outer peripheral surface that extends laterally beyond a portion of the main wall but does not

extend beyond a greatest lateral extent of the main wall. An upright portion having a curved outer surface is disposed adjacent the actuator member. The curved outer surface is engageable with an internal surface of the housing to guide the flexible actuator member and prevent inadvertent actuation of the flexible actuator member. The housing includes a housing wall that tapers to a discharge opening and is adapted to secure a container therein that has a radius smaller than the discharge opening such that the outer peripheral surface is disposed in interfering relationship with the housing wall when the container and the actuator cap are disposed in the housing.

The cited art does not disclose or suggest an actuator cap having a main wall extending generally along an axial dimension of the cap, having a generally circular cross section, and having a varying cross sectional size or a main wall having a generally circular cross section that decreases in cross sectional size along an axial dimension and a flexible actuator member extending from the main wall traverse to the axial dimension, wherein the actuator member includes a central portion adapted to be attached to a valve stem and terminates at an outer peripheral surface that extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall, as recited by claims 19-26, 28, 29, 43-46, and 48-50.

In addition, the cited art does not disclose or suggest an actuator cap and a housing, wherein the cap includes a main wall with a generally circular cross section that varies along an axial dimension and the housing includes a housing wall that tapers to a discharge opening and is adapted to secure a container therein that has a radius smaller than a discharge opening such that the outer peripheral surface is disposed in interfering relationship with the housing wall when the container and the actuator cap are disposed in the housing, as recited by claims 51-54.

In fact, Harris discloses a valve actuating assembly for a pressurized container 11 having a valve stem 13 extending therefrom and a valve button 14 disposed over the valve stem 13. An anchor ring 18 is disposed around a valve cup skirt 17 extending from the container 11 and an actuator arm 20 is connected to the anchor ring 18 by a hinge 21. An underside of the actuator arm 20 includes an opening 24 for alignment with the valve button 14. A pair of guide posts 34 extend from the anchor ring 18 opposite the hinge 21 to align the opening 24 with the valve button 14. A nozzle-shaped overcap 25 is mounted to the anchor ring 18 and includes a circumferential groove 26 in an inner wall for attachment to a

shoulder 28 of the anchor ring 18. The overcap 25 has a central opening 31 aligned with the opening 24 in the actuator arm 20 and an opening 15 in the valve button 14 for dispensing therethrough. The overcap 25 further includes a cutout through which the actuator arm 20 extends.

The valve actuating assembly of Harris further includes a sling ring 35 and a trigger connecting means extending between the sling ring 35 and the actuator arm 20. The sling ring 35 has a side wall 36 with lugs 37, 39 extending inwardly therefrom for engaging top and bottom surfaces of a bead 42 formed around a lower portion of the container 11. A trigger connecting means extends between the sling ring 35 and the actuator arm 20 and includes a hook 43 for engaging the bead 42, a compensating section 46, a strap section 45, and a trigger section 44. A plurality of hinges 47, 51, 52, 55 connect portions of the trigger connecting means to the actuator arm 20 and the sling ring 35. In order to actuate the container 11, a user pulls on a handle 38 formed between the side wall 36 of the sling ring 35, which causes the trigger connecting means to pull downwardly on the actuator arm 20, thereby forcing walls forming the opening 24 to press downwardly on the valve button 14 to actuate the valve stem 13.

First of all, if the side wall 36 of Harris is considered the recited main wall of claims 19 and 43, such main wall does not have a varying or decreasing cross sectional size. Further, the elements 43-46 do not have a generally circular cross-section. The only element of Harris with a varying circular cross section is the overcap 25. If the overcap 25 of Harris is the recited main wall, then Harris lacks an actuator member having a central portion adapted to be attached to a valve stem of a container and terminating at an outer peripheral surface, wherein the outer peripheral surface extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall. In fact, as seen in FIG. 1 of Harris, the actuator arm 20 has an opening 24 disposed in a central portion thereof, but such opening is not adapted to be attached to a valve stem. Further, the actuator arm 20 extends well beyond a greatest lateral extent of the overcap 25. In fact, it is necessary for the actuator arm 20 to extend beyond a greatest lateral extent of the overcap 25 so that the trigger connecting means 43-46 can connect thereto and such that a lever can be created at point 22 to provide an actuating mechanism to dispense material from the container 11.

With respect to the rejection of claim 51 in view of Harris, the examiner notes at page 2, paragraph 3 of the present Office action that "Harris discloses the housing to include an

outlet opening at 31 that is larger than the radius of the held container 11 at location 13 or 16 on the container.” If the overcap 25 with central opening 31 of Harris is considered the recited housing with discharge opening, Harris lacks a main wall having a generally circular cross section with a varying or decreasing cross sectional size. If the overcap 25 of Harris is considered the recited main wall with varying circular cross section, Harris lacks an outer peripheral surface disposed in interfering relationship with a housing wall when the container and actuator cap are disposed in the housing.

Durso discloses a closure cap 10 for an aerosol container 11 having a valve means 19 extending therefrom. The closure cap 10 includes a generally cylindrical housing 15 with a top wall 16 and a vertically extending generally cylindrical wall 17 having a lower end 18 that is attached to the container 11. A nozzle 22 is mounted on the valve means 19 and includes vertical and horizontal passages 25, 26 for dispensing through an opening 29 in the wall 17 of the cap 10. An operating unit 30 includes a generally U-shaped body 45 with a transversely extending bridge portion 32 that extends between supporting arms 31. Each of the supporting arms 31 includes an inwardly, horizontally extending actuating member 34 and an outwardly extending control member 35 with a vertically extending slot 36. The operating unit 30 is inserted into the cap 10 by sliding each control member 35 at slots 36 into vertically spaced openings 38 in the cap 10. Each of the control members 35 includes a marginal edge portion 33 that projects laterally beyond edge portions of the openings 38. The operating unit 30 further includes a button-like control member 41 mounted in a centrally arranged annular opening 42 formed in the top wall 16 of the cap 10. The control member 41 includes a downwardly depending neck portion 43 of reduced diameter.

In order to actuate the cap 10 of Durso, a user must simultaneously press inwardly on the control members 35, thereby moving the actuating members 34 toward one another, and press downwardly on the control member 41. Movement of the actuating members 34 toward one another creates an actuating surface therebetween and downward movement of the control member 41 forces the actuating member 43 into contact with the actuating surface created by the members 34, thereby forcing the members 34 downwardly and into contact with and actuating the nozzle 22.

First of all, Durso does not include a main wall with a generally circular cross section that varies or decreases in size along an axial dimension. The only element of Durso having a circular cross section is the cap 10 thereof, but such cap 10 does not have a varying cross

section. Further, even if the cap 10 were considered the recited main wall, Durso lacks a flexible actuator member having a central portion adapted to be attached to a valve stem and terminating at an outer peripheral surface wherein the outer peripheral surface extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall. First of all, no portion of the operating unit 30 is adapted to attach to a valve stem and, secondly, the operating unit 30 terminates at control members 35 that extend beyond a greatest lateral extent of the cap 10.

Knapp discloses a body B attached to a container 10 for dispensing liquid therefrom. The body B includes a valve assembly therein that is connected to the container 10 and which moves liquid from the container 10. A capillary tube 46 is connected to the container 10, extends through the valve assembly, and terminates at a nozzle 20. A valve depressor 58 is disposed in a cup member 56, which is disposed atop a spring 60 of the valve assembly. A thumb button 62 includes a projection 64 at one end thereof that pivots in a socket 66. The thumb button 62 may be pressed downwardly such that the first end moves upwardly, a second end thereof moves downwardly, and a central portion thereof contacts the valve depressor 58 to actuate the valve assembly and dispense liquid therefrom.

Knapp lacks at least a main wall having a generally circular cross section with a varying or decreasing cross sectional size and a flexible actuator member integrally extending from the main wall, having a central portion adapted to attach to a valve stem, and terminating in an outer peripheral surface wherein the outer peripheral surface extends laterally beyond a portion of the main wall but does not extend beyond a greatest lateral extent of the main wall. The examiner contends at page 4, paragraph 7 of the present Office action that Knapp has "an outer peripheral surface 68 that extends laterally beyond the portion of the main wall surrounding 56 and 60 but does not extend past the greatest lateral extent of the main wall at 70 and at upright portion 22..." As seen in FIG. 2, the thumb button 62, which is the only flexible member in Knapp, does not include a central portion adapted to attach to a valve stem. Further, the thumb button 62 has a surface that extends beyond a greatest lateral extent of the body B at projection 64.

Batistelli discloses a tool for cleaning walls that includes a body 12 integrally extending from a pole handle 17. Spaced upper and lower container holding arms 20, 21, 22, and 23 are integral with and extend from the body 12. An aerosol container 24 is held between the upper arms 20, 21 and the lower arms 22, 23. An actuating arm 30 is integral

with and extends from a top portion of the body 12 and includes a hole 36 disposed therethrough and aligned over an actuation knob 26 on the container 24. A cord 35 is passed through the hole 36 and is guided through holes in the container holding arms 20, 21, 22, 23 such that opposite ends of the cord 35 are attached to a bracket 40 in spaced relation to the pole handle 17 and disposed below the arms 20, 21, 22, 23. Deflecting the cord 35 toward the pole handle 17 causes the actuating arm 30 to deflect sufficiently to engage the actuation knob 26 on the container 20.

First of all, Batistelli lacks a main wall that has a generally circular cross section. At most, as seen in FIG. 4, Batistelli has a main wall with a U-shaped cross section. In addition, Batistelli lacks a flexible actuator member having a central portion adapted to be attached to a valve stem, wherein the actuator member terminates at an outer peripheral surface that extends laterally beyond a portion of a main wall but does not extend beyond a greatest lateral extent of the main wall. The examiner indicates at page 5, paragraph 9 of the present Office action that the cord (flexible actuator member) 35 does not extend past a greatest lateral extent of the main wall at 20, 21. This may be correct, but no portion of the cord 35 is adapted to attach to a valve stem. Further, no portion of the cord 35 extends laterally beyond a portion of the main wall 12, 31, 13, 14, 46, as seen in FIG. 3 of Batistelli.

In order for a claim to be anticipated, a single prior art reference must show all of the recited limitations arranged or combined in the same way as recited in the claim. *Net Money, Inc. v. Verisign, Inc.*, No. 2007-1565, slip op. at 14-15 (Fed. Cir. Oct. 2008). Accordingly, the cited art cannot anticipate the claims at issue. Reconsideration and allowance of the claims at issue are respectfully requested.

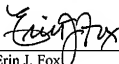
To support a *prima facie* case of obviousness based on a combination of prior art elements, an examiner must establish "a finding that the prior art included each element claimed, although not necessarily in a single prior art reference, with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference." Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* 72 Fed. Reg. 57,526 (Oct. 10, 2007). Because the cited art does not disclose or suggest all of the elements as set forth in the claims at issue, it follows that such claims are not rendered obvious thereby.

**Deposit Account Authorization**

The Commissioner is hereby authorized to charge any deficiency in any amount enclosed or any additional fees which may be required during the pendency of this application under 37 CFR 1.16 or 1.17, except issue fees, to Deposit Account No. 50-1903.

Respectfully submitted,

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